

MINUTES
YORK COUNTY PLANNING COMMISSION

Regular Meeting
York Hall, 301 Main Street
September 11, 2002

MEMBERS

Andrew A. Simasek
Spencer W. Semmes
Robert D. Heavner
Nicholas F. Barba
Alfred E. Ptasznik, Jr.
Michael H. Hendricks
Ann F. White

CALL TO ORDER

Chair Michael Hendricks called the regular meeting to order at 7:00 p.m. The roll was called and all members were present. Staff members present were James E. Barnett, Jr., J. Mark Carter, Timothy C. Cross, Amy M. Parker, and Maggie Hedberg.

REMARKS BY THE CHAIR

Chair Hendricks remarked that the Code of Virginia requires local governments to have a Planning Commission, the purpose of which is to advise the Board of Supervisors on land use and planning issues affecting the County. The responsibility is exercised through recommendations conveyed by resolutions or other official means and all are matters of public record. He indicated that the Commission is comprised of citizen volunteers, appointed by the Board, representing each voting district and two at-large members.

APPROVAL OF MINUTES

Mrs. White moved to adopt minutes of the August 14, 2002 regular meeting. The motion carried unanimously.

CITIZEN COMMENTS

Mr. Gary Freeman, 120 Ballard Street, observed that the USS Yorktown would depart the Naval Weapons Station tomorrow at 8:00 AM, cruise along the York River and pass underneath the Coleman Bridge.

Mr. Freeman then addressed the possible relocation of Nick's Seafood Restaurant from its present site to the bluff behind the present site. He cited the Yorktown Master Plan as encouraging the preservation of the character of Yorktown. The businesses on the bluffs in Yorktown are residential in character and should not include businesses that are high-impact-commercial in nature, he continued, and require large areas for parking. Mr. Freeman encouraged the Planning Commission to register serious reservations about that move to the Board of Supervisors.

PUBLIC HEARINGS

Application No. ZM-68-02, Ned's Marine & Auto Center: Request to amend the York County Zoning Map by reclassifying from R13 (High-Density Residential) to conditional GB (General Business) approximately 2.16 acres of land located on the rear portion of the 2.85-acre property located at 2113 and 2115 George Washington Memorial Highway (Route 17) and further identified as Assessor's Parcel Nos. 37-7 and 37-7A. The applicant has voluntarily proffered to construct a 6'-8' privacy fence and provide a Type 25 (25') transitional buffer along the side property lines.

Mr. Tim Cross, assisted by audio and video presentations, summarized the staff memorandum to the Commission dated September 3, 2002. Mr. Cross noted that the County had cited the applicant for storing boats at the rear of his property in violation of the Zoning Ordinance. The staff recommendation is for modified approval from the applicant's request, Mr. Cross advised, by extending the depth of GB zoning by 280 feet for a total depth of 475 feet from Route 17, providing a storage area limited to the existing cleared area behind the business.

Ms. White asked if the adjacent neighbors were notified of the application, to which Mr. Cross responded that the staff mailed letters to all of them explaining the nature of the request. He further stated that staff has received three calls and an email; two of the callers recommended denial, he said.

Mr. Semmes asked if the depth of the proposed GB zoning would be greater than that of other GB-zoned parcels on that side of Route 17. In response, Mr. Carter thought that to be the case and further noted that the property in question was "an anomaly" because it is much deeper than neighboring parcels.

Mr. Ptasznik inquired as to the use of the property remaining behind the GB area that is not a part of the requested rezoning or the staff recommended area. Mr. Cross advised that until there is a specific plan for using the rear portion that would complement the wooded, residential area that it adjoins, no action would be taken on that portion of the property. Mr. Ptasznik asked if an eight-foot fence would hide the storage area from view of the neighbors and Mr. Cross said the fence should be adequate. In reply to Mr. Simasek, Mr. Cross added that the portion of the property in question is landlocked.

Mr. Simasek asked if the rezoning to GB were to be approved, would the classification remain on the property if it is sold or if converted to another use. Mr. Cross noted that the proffers submitted by the applicant preclude its use for anything other than boat storage and the conditions run with the land.

Mr. Heavner asked if the County has control over the type of transitional buffer and Mr. Cross said the applicant would plant the types of vegetation required by the Zoning Ordinance, some of which would ultimately grow taller than six feet.

The Chair opened the public hearing.

Mr. Lewis N. Lipscomb, Jr., 2115 George Washington Memorial Highway, owner of Ned's Marine and Auto Service, noted that his application is not related in any way to any other commercial development proposals, as apparently had been believed by some of his neighbors.

Mr. Lipscomb said he wanted to be able to use the property on which he has paid taxes for 12 years. He has talked with some of his neighbors and there are basically three neighbors to the left of his property that seem to be opposed to what he wants to do, he said. Mr. Lipscomb reported that he has cleared the area to the rear of his property and tries to keep it clean and free of snakes and mosquitoes. He acknowledged there are some boats in the area that were left for repair subsequent to which their owners filed for bankruptcy or moved from the area. He has allowed children from the neighborhood to play around the boats, he said. Mr. Lipscomb mentioned neighbors along Byrd Avenue who are opposed to having a buffer between their fence and his because the property is densely wooded. The neighbor at 106 Oak Street, he added, wants a fence between her property and his. He said he will work with everybody and will build whatever size fence the County requires, six or eight feet. The applicant said he has conducted business in York County for 12 years as the only marine dealer on the Virginia peninsula, and further that he has no intention of cutting trees to clear the rear portion of his property.

Mr. Hendricks asked Mr. Lipscomb if he is aware of the County's recommendation to extend the conditional zoning to only a portion of the property. Mr. Lipscomb said he is aware of that but is not necessarily in favor of it. Mr. Hendricks asked if the staff recommendation is acceptable and would allow the applicant to conduct business as usual. Mr. Lipscomb said yes, and that he just wants to utilize his property.

Ms. Rhonda Cooper, 108 Oak Street, stated that she has resided on Oak Street for many years. Her major concerns included trees and limbs having been pushed by the applicant from his property onto hers in February 2001, which she believed to have been the most recent clearing. She stated that the applicant had stored many items behind his property and near hers, including a horse and a goat. An increase in storage usage has occurred over the last year, Ms. Cooper continued, and the applicant has cleared even more property for more storage area. She said that of 15 property owners concerned, only six actually adjoin the applicant's rear property and three have called staff with their concerns. She said the mosquitoes are unbelievably bad on her property and she assumes that water stands in the boats in the storage area although she has not checked to see if that is the case. Ms. Cooper expressed concern that the applicant might sell the property for another commercial use.

Mr. William T. Claiborne, Jr., 118 Oak Street, said the Commission several years ago conducted a similar meeting to consider a request to rezone the same property, and the Board of Supervisors ultimately denied that application because of concerns registered by residents of Byrd and Oak Streets. He said he agrees with statements made by his neighbor and mentioned the eyesore of the "boat graveyard" from people's back yards. Mr. Claiborne did not believe any fence would be tall enough to protect the view of the storage area from all of the surrounding residents. He also said there are "some boats in the trees."

Mr. Richard Toth, 205 Trinity Drive, said his primary concern is the possibility of adding another junkyard to those already on Route 17. He spoke further of possible risks to children who are allowed to play on the stored boats.

Mr. Danny Cooper, 108 Oak Street, said the sight from his backyard is disgusting. He said he had asked Mr. Lipscomb to put up a fence, but that he never installed one. He said he does not want to live next to a boat junkyard and requested denial of the application.

Seeing no one else who wished to speak on this application, Chair Hendricks closed the public hearing.

Mr. Semmes believed that to convert the property to a boat storage yard would do the neighbors a disservice, and further that granting the rezoning would be counter to the County's goal of eliminating eyesores along Route 17. He did not believe the proposed use to be an adequate justification to rezone the property and could not support approval.

Mr. Barba said he believed adequate fencing could improve the site and in that event could vote in favor of the staff recommendation.

Mr. Simasek agreed with the comments made by Mr. Semmes, and added that making the land fit its present use would not be fair to Mr. Lipscomb's neighbors. He did not support approval.

Mr. Heavner asked why the boats are being stored there now. **Mr. Lipscomb** answered that the boats are being held because of their various owners' bankruptcies, and that all of them are for sale.

Mr. Ptasznik asked if the land behind the property in question could accommodate a new residence. Mr. Cross said the rear portion is landlocked, and that additional property would have to be acquired.

Mr. Ptasznik said he does not encourage the establishment of a boat graveyard and could not support approval.

Mr. Semmes asked if current zoning allows the storage of boats as they are being stored now, and Mr. Cross said the Zoning Ordinance does not permit boat storage on the property in question.

Mr. Hendricks and Mrs. White each noted they were not in favor of approval, but if it were to be approved Mr. Hendricks would recommend the staff recommendation instead of the applicant's request.

Resolution No. PC02-30

A RESOLUTION TO RECOMMEND APPROVAL OF A REQUEST TO RECLASSIFY THE REAR PORTION OF THE PROPERTY LOCATED AT 2113 AND 2115 GEORGE WASHINGTON MEMORIAL HIGHWAY FROM R13 TO GB SUBJECT TO CONDITIONS

On motion of Mr. Semmes, the resolution was denied by a vote of 1:6 (Barba for approval).

Application No. SW-2-02, Harrison & Lear Land Corporation: Request to overturn the decision of the Subdivision Agent not to grant a waiver from the requirement for a street interconnection between the Running Man and Wythe Creek Farms subdivisions. The proposed street, Messongo Run, would connect Kanawah Run in Running Man with Brentmeade Drive in Wythe Creek Farms. The applicant is the developer of Running Man and is seeking to delete this interconnection.

Chair Hendricks recognized Commissioner Alfred E. Ptasznik, Jr., who made the following statement:

Mr. Chairman, I would like to make a declaration for the record of my personal interest in the matter now to be considered by the Commission, namely Application SW-2-02, brought by Harrison and Lear Land Corporation, seeking a waiver from the requirement for a street connection between Running Man subdivision and Wythe Creek Farms subdivision. This declaration is made pursuant to Code of Virginia section 2.2-3115(G), and explains why I believe that I am not prevented by the Virginia Conflict of Interest Act from participating in the decision on this application.

I am a homeowner in Running Man subdivision, and a member of the Running Man Homeowners Association, and currently serve as president of that association. As such, I may be affected by the Commission's decision in this matter. However, my personal interests will be affected no more than will those of other homeowners residing either in Running Man, or in Wythe Creek Farms. I have spoken on this matter with the County Attorney, and he has advised me that neither my property ownership nor my office with the homeowners association creates a conflict of interest for me, provided that I make this public declaration. Moreover, I believe that I am fully able to participate in this matter fairly, objectively, and in the public interest.

Mr. Tim Cross presented the staff report on the subject application, concluding with the staff recommendation to deny the requested waiver by adopting proposed Resolution PC02-31. Mr. Cross also noted proposed draft resolution PC02-32 for the Commission to consider in the event it does grant the waiver, which would also require access for bicycles, pedestrians and emergency vehicles.

Mr. Semmes inquired of the ownership of the property appropriated for the subject street connection and if it is possible the property could revert to private ownership, and who would be required to maintain it. Mr. Cross thought it would retain its current status as a Virginia Department of Transportation (VDOT) right-of-way regardless of whether or not the street interconnection is constructed. Mr. Semmes asked who would be responsible for maintenance if the access but not the interconnection were to be approved, and Mr. Cross noted that VDOT would still be responsible for its upkeep. Responding to Mr. Simasek, Mr. Cross verified that the subject interconnection was on the original preliminary plans, in 1982 and 1987, for the Running Man subdivision.

Having no other questions from the Commission, the Chair opened the public hearing.

Mr. Willard "Skip" Morris, Director of Development, Harrison & Lear Land Corporation, 2310 Tower Place, Hampton, Virginia, spoke in favor of approving the application. Mr. Morris acknowledged that he and his associates had been advised by County staff of longstanding plans for four interconnections within the residential area. They also knew about the waiver granted on the Potomac Run interconnection, and subsequently discussed with the Running Man Community Association (RMCA) the possibility of requesting a waiver on the Messongo Run interconnection. The Running Man CA expressed no strong objections to the interconnection at that time. Later, however, the Wythe Creek Farms HOA objected to the Messongo Run connection because they believed the connection through the Woods on Mansion Road would satisfy the County requirement for two points

of ingress and egress, and Harrison & Lear agreed to apply to waive the Messongo Road interconnection.

The issue, Mr. Morris continued, appears to be that the longstanding County policy is not commensurate with the wishes of the residents. He hoped the Commission would listen to the residents and grant the waiver, but satisfy the County's plan by allowing a bike path and emergency vehicle access.

Ms. Connie Grechanik, 209 Pasture Lane, president of the Wythe Creek Farms HOA, said the County has earned its reputation for providing safe and well-planned neighborhoods but the way the County plans to continue to enhance the quality of life in Wythe Creek Farms is the question raised by the HOA. Having no sidewalks, the residents must bicycle and walk on the roads. She said that redirecting traffic from Victory Boulevard and Carys Chapel Road through neighborhoods would jeopardize safety, and Brentmeade Drive could become a cut-through road for the residents of Running Man and Woodlake Crossing subdivisions. She and her neighbors have great concern, she concluded, that people would use Brentmeade Drive to Messongo Run to Running Man Trail to Big Bethel Road as a route to Tabb Elementary or Bethel Manor Elementary school. She favored approving the waiver based primarily on safety issues.

Ms. Carol Miller, 128 Rockmor Lane, began with a PowerPoint slide, and spoke of existing and anticipated traffic volumes in the Wythe Creek Farms subdivision. She stated that Brentmeade Drive already exceeds the maximum traffic volume for its street classification, and believed that opening the interconnection at Messongo Run would have the ultimate effect of transferring traffic between Running Man and Wythe Creek Farms subdivisions.

Ms. Beverly Castonguay, 310 Brentmeade Drive, continued the audiovisual presentation addressing traffic in the subject areas. She reiterated Ms. Miller's opinion that the number of average daily trips (ADTs) on Brentmeade Drive already exceeds the allowable limit. She believed that approval of the connection would violate the Comprehensive Plan and the Subdivision Ordinance. Ms. Castonguay expressed support for an access similar to the one at Potomac Run for use by pedestrians, bicyclists, emergency vehicles and, if the County feels necessary, school buses.

Mr. Jerry Howie, 500 Brentmeade Drive, said Messongo Run, if developed as a road, would be a convenience because a road is not required; there are alternate emergency access routes within Wythe Creek Farms and adjacent developments. It would provide a faster and more direct route for residents and non-residents alike, but increased traffic, safety, and security problems are inconveniences that a road connection may bring, he added, and believed the development process allows changes to occur when circumstances require them. He favored approval.

Mr. Bob Brodel, 605 Brentmeade Drive, past president of Wythe Creek Farms HOA, recognized and thanked individuals who worked on the issue. He did not believe that emergency vehicles would use an interconnecting street such as Messongo Run when they could use major roads, and believed that service vehicles did not need the interconnection. Emergency evacuation routes have been planned, or plans are underway, and he did not believe that was an issue. Mr. Brodel believed there should be a

better venue to allow homeowners to address issues that affect their communities instead of having such issues determined by developers and County officials before residents have ever moved in. Residents of Wythe Creek Farms travel to some major road wherever they go outside the subdivision, so they do not need Messongo Run to simply direct them to another major road. None of the County's reasons to move forward with the interconnection would solve any problems in the Wythe Creek Farms community, he said. The most important deciding factor, Mr. Brodel concluded, is that the majority of the taxpayers present at this hearing do not want the interconnection.

Mr. Eddie Glenn, 309 Brentmeade Drive, agreed with the previous speakers in his opposition to the interconnection.

Mr. John Castonguay, 310 Brentmeade Drive, has lived on the Peninsula all his life and noted that some streets such as 79th Street, Beach Drive and Dresden Drive were originally built to allow access to other streets, and they now have become major traffic arteries in Hampton. He anticipates that Messongo Run would be used as a major cut-through and increase traffic significantly on Brentmeade Drive and Running Man Trail.

Lt. Col. Jack Hayes, 602 Brentmeade Drive, said that as a public servant he has tried to be objective in his consideration but can find no compelling argument in favor of building Messongo Run as an interconnection. He does not believe that Victory Boulevard is dangerous for school buses to travel. He thought Messongo Run would be used to decrease congestion of autos on the way to Magruder Boulevard, opening the potential for increased crime. There are many pedestrians and cyclists, not vehicles, along the area proposed for the interconnection, he said, and building it would impact the quality of life. He wanted approval of the waiver.

Mr. Jim Eagle, 211 Brentmeade Drive, believed Running Man Trail was designed for "cut-through" and opening Messongo Run to vehicles would create more traffic, posing a danger to children. He requested keeping Messongo Run closed.

Ms. Song Vic, 303 Kenawah Run, thought the interconnection would pose a threat to safety and voiced opposition based on the safety of children. She concluded that opening Messongo Run would invite more traffic and asked the members to consider safety issues and overall impact on both subdivisions.

Ms. Debbie Frisbie, 603 Brentmeade Drive, agrees it is a "common sense issue," that children are in more danger on the street in their own neighborhoods than they are in a bus on a highway. She felt opening Messongo Run would have the effect of joining Running Man and Wythe Creek Farms subdivisions and the residents would prefer to remain divided.

Mr. Noel West, 201 Pamlico Run, is a director of Running Man Community Association. Mr. West believed the real issue is whether or not the County will allow the interconnection in violation of its own Code. He submitted copies of Article VI, Design Standards, of the York County Subdivision Ordinance where he said the requirements are "spelled out." He suggested that to open Messongo Run would be in violation of the County Code.

Mr. Colon Oliver, 314 Carys Chapel Road, has been a resident of Carys Chapel Road for 28 years, he said. Mr. Oliver fully supported going ahead with the interconnection because it is consistent with past behavior of the Planning Commission, is equitable, and makes good sense.

Mr. Robert Maynard, 216 Pasture Lane, said his primary concern is safety of the children. The County indicated that the connection would not be completed if it caused significant safety risks, and Mr. Maynard felt that additional traffic on Running Man Road upon the opening of Messongo Run would create safety risks for school children, who are not very visible on roads during early winter mornings.

Ms. Sandra Griffin, 408 Carys Chapel Road, agreed with Mr. Oliver. She stated that her father and her grandmother were born at Carys Chapel Road when there were few cars on it, but now the traffic is excessive and very hard for its residents. She wanted to open Messongo and "share the wealth of the traffic. All people in the County need to be safe."

Mr. Dale Ames, 318 Brentmeade Road, was opposed to the interconnection. He did want to allow a cut-through for emergency vehicles, however.

Ms. Jean Oliver, 314 Carys Chapel Road, submitted a petition containing approximately 75 original signatures, which reads as follows:

As residents of the Cary's Chapel Community, we support the opening of the street that connects Wythe Creek Farms and Running Man housing developments.

Ms. Oliver reported that more than 50% of the residents of Cary's Chapel Road community are senior citizens, many of whom live across the street from relatives and their own mail and newspaper boxes. They are endangered when they cross the street, she remarked, and the shoulders on Carys Chapel Road are not safe for cyclists, joggers or walkers. She pointed out that Running Man Trail is divided and does not allow driveways to empty onto the street and Wythe Creek Farms has wide and curved streets that do not encourage speeding. She added that opponents to the Messongo Run connection themselves cut through the Cary's Chapel community on a daily basis, while opposing the interconnection for fear that other drivers will cut through their own neighborhoods. She said the County has approved the interconnection and should allow it to be completed.

Ms. Darlene Lee, 300 Carys Chapel Road, said her family has lived in the neighborhood a long time and agreed with Mr. Colon Oliver and Ms. Jean Oliver. She said Carys Chapel Road has become a route to all other subdivisions in the area, impacting safety because of the increased traffic on Carys Chapel Road. She finds it impossible to cross the street to visit her mother because of the traffic, she said, and she supported the Messongo Run interconnection.

Mr. Ed Laumick, 119 Tuckahoe Trace, said he believes the issue of safety for pedestrians on Carys Chapel Road should be addressed no matter what happens. He said more development to the east of Carys Chapel would bring additional traffic to Carys Chapel Road. He did not know the solution but believed some potential problems can be avoided with sensible development. He was totally opposed to the Messongo Run interconnection for safety reasons.

Ms. Tish Corey, 507 Brentmeade Drive, believed that solving the County problem would endanger lives of the children and was most concerned about safety issues. She said the citizens within the affected neighborhoods should have input before the County makes these types of decisions because they pay taxes. She did not support the Messongo Run interconnection.

Mr. Jack Rhodes, 111 Nansemond Turn, a member of Running Man Community Association Board, said the consensus of the members is they do not want Messongo Run opened as a connector road. He expressed sympathy with the problems that exist for the residents on Carys Chapel Road and felt that they should be addressed.

Mr. Tom Brown, 106 Kiskiack Watch, said he was impressed with the staff presentation but he did not agree with its conclusion and saw no merit to having the proposed connector road. He suggested that the decision should be based on safety concerns for the citizens and not on political issues.

Mr. Larry Slade stated that he lived on Carys Chapel Road for 51 years and now lives in Wythe Creek Farms. The only community to benefit by completing Messongo Run, in his opinion, would be Poquoson, because traffic that might normally cut through Poquoson would instead cut through Brentmeade Drive and ultimately dump more traffic on Carys Chapel Road. He hoped the Commission would make what he considers to be the right recommendation.

Ms. Donace Elliott, 501 Brentmeade Road, said she is concerned for the safety of her two young children who do not play on the street yet but they will not be able to if Messongo Run is built. She did not know about the connection when she moved in and chose her street because it seemed to be safe for her children. She asked that the waiver be approved.

Chair Hendricks closed the public hearing.

Mr. Semmes thanked and commended the principals for the quality of their presentation. He noted that the quality of the arguments is most helpful to the members.

Mr. Ptasznik believed the arguments were very informative. He observed that the issue concerns all of Running Man and Wythe Creek Farms and beyond, and is not simply about exchanging traffic between two subdivisions. However, upon the conclusion of his study of the Comprehensive Plan and the county's ordinances, he concluded that if the connection offered another path that ultimately would increase traffic within the subdivisions, it should not be completed. He stated that Running Man Trail is already a cut-through street. Running Man and Wythe Creek Farms together have a total of three access roads and will have another when Woods at Mansion Road is completed, he observed, and believed that the four access roads would meet the County's requirement. Other reasons to grant the waiver included increased traffic volume and diminished safety. Mr. Ptasznik supported the application to waive the connection at Messongo Run.

Mr. Semmes said neighborhoods are designed to provide interconnections for traffic flow between them, and explained that street layouts are approved well before most people buy their lots or homes. He believed completing Messongo Run would be a positive change for the neighborhood, and supported the connection.

Mr. Barba asked about the School Division and Fire and Life Safety preferences. Mr. Cross responded that the School Division strongly supports the connection but the Department of Fire and Life Safety did not have a strong preference. Mr. Barba noted that advantages to having more than one vehicle access to a neighborhood include an increased sense of community and increased efficiency with which the roads can accommodate local traffic on local streets. He supported the connection.

Mr. Simasek did not believe that the connector would have much effect either way on Carys Chapel Road, Victory Boulevard, or surrounding roads because of the intensive growth of the neighborhoods and the number of cars that use their roads. He did think that the connection would help ensure that the overall plan works as intended when Carys Chapel Road is widened. He thought it could also improve the sense of community.

Mr. Heavner indicated that all prospective subdivision home purchasers, as part of their due diligence, should be aware of the plan for connector roads in their respective subdivisions. Mr. Heavner did not believe that building the Messongo Run connector road would bring about significant traffic increases because it would simply shift the flow of internal traffic. He said he had not observed any particular traffic around the connector area during his travel in that area and had no problem with supporting the Messongo Run connection.

Ms. White said that, although she supports the Ordinance in general, she was not particularly supportive of the Messongo Run connector road.

Mr. Hendricks said his own experience has been that opening connector roads has several advantages, such as promoting intercommunity involvement, providing more than one ingress and egress, and increasing property values – which was the experience in Coventry. He did not believe it had promoted vandalism or higher crime rates, as was anticipated. Mr. Hendricks noted that working with VDOT and reducing speed limits on the major streets within the Coventry community became a deterrent to speeders and drivers who cut through. He supported interconnection of streets and neighborhood-wide traffic plans as recommended by the Comprehensive Plan. Mr. Hendricks supported upholding the County's position to build Messongo Run.

PC02-31

On motion of Mr. Barba, which carried 5:2 (Ms. White and Mr. Ptasznik dissenting), the following resolution was adopted:

A RESOLUTION TO AFFIRM THE DECISION OF THE SUBDIVISION AGENT
NOT TO WAIVE THE REQUIREMENT TO INTERCONNECT KANAWAH RUN
IN RUNNING MAN WITH BRENTMEADE DRIVE IN WYTHE CREEK FARMS

WHEREAS, Harrison & Lear Land Corporation has requested a waiver, pursuant to Section 20.5-92(c) of the York County Subdivision Ordinance, to eliminate the requirement to interconnect Kanawah Run (Route 1738) in the Running Man subdivision with Brentmeade Drive (Route 1717) in the Wythe Creek Farms subdivision; and

WHEREAS, the Subdivision Agent has denied the requested waiver; and

WHEREAS, the applicant has appealed the denial to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 11th day of September, 2002, that the Commission finds that there is no demonstrable safety deficiency that would allow the interconnection of Kanawah Run (Route 1738) and Brentmeade Drive (Route 1717) to be waived.

BE IT FURTHER RESOLVED by the Planning Commission that the decision of the Subdivision Agent to deny the requested waiver of the street interconnection requirements of Kanawah Run (Route 1738) in the Running Man subdivision and Brentmeade Drive (Route 1717) in the Wythe Creek Farms subdivision be, and it is hereby, affirmed.

Application No. UP-604-02, Randy Firth/Total Home Improvements: Request for a Special Use Permit, pursuant to Section 24.1-306 (Category 15, No. 4b) of the York County Zoning Ordinance, to authorize a contractor's shop with outdoor storage. The property is located at 4033 George Washington Memorial Highway (Route 17), and is further identified as Assessor's Parcel No. 30-14-3. The property is located on the west side of Route 17, approximately 450 feet north of its intersection with Ella Taylor Road (Route 751). The property is zoned GB (General Business) and is designated for General Business development in the Comprehensive Plan.

Ms. Amy Parker presented a summary of the memorandum to the Commission dated September 4, 2002, in which the staff recommended approval.

The Chair opened the public hearing.

Mr. Randy Firth, 4033 George Washington Memorial Highway, advised that after five years operating his business at its present location, he received a citation from the County because of the materials stored on his property. He offered to construct a PVC fence to skirt the rear of the property and stated he is willing to work with the County to resolve the issue.

The Chair closed the public hearing.

PC02-33

On motion of Mr. Simasek, which carried 7:0, the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT
TO AUTHORIZE A CONTRACTOR'S SHOP WITH OUTSIDE STORAGE AT 4033
GEORGE WASHINGTON MEMORIAL HIGHWAY

WHEREAS, Randy Firth/Total Home Improvements has submitted Application No. UP-604-02, which requests a special use permit pursuant to Section 24.1-306 (Category 15, No. 4b) of the York County Zoning Ordinance to authorize a contractor's shop with outside storage located at 4033 George Washington Memorial Highway (Route 17) and further identified as Assessor's Parcel No. 30-14-3; and

WHEREAS, said application has been referred to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 11th day of September, 2002 that Application No. UP-604-02 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize a contractor's shop with outside storage located at 4033 George Washington Memorial Highway (Route 17) and further identified as Assessor's Parcel No. 30-14-3, subject to the following conditions:

1. This use permit shall authorize a contractor's shop with outside storage located at 4033 George Washington Memorial Highway (Route 17) and further identified as Assessor's Parcel No. 30-14-3.
2. A site plan prepared in accordance with the provisions of Article V of the York County Zoning Ordinance shall be submitted to and approved by the County prior to establishment of the storage yard on the subject property.
3. The outside storage area shall be located within the rear yard of the parcel, and shall be screened on the north, east and south sides with six-foot high, solid board-on-board fencing as approved by the Zoning Administrator. Pursuant to Section 24.1-486, evergreen planting material shall be installed for screening to augment the proposed fencing. Supplemental landscaping material of a type, planting size and amount satisfactory to the Zoning Administrator shall be installed surrounding the parking area.
4. Contractor's materials kept within the storage area shall not exceed the height of the surrounding fencing.
5. In accordance with the Building Officials Code of America; National Fire Prevention Code, contractor's materials stored outside shall not be stored closer than 15 feet from any lot line and any other building on the property.

6. Materials stored outside on the property shall be limited to those associated with a home improvement contractor's business, and shall not include junk, solid waste, construction debris or hazardous waste as defined in Chapter 19, Section 19.1 and/or Chapter 24, Section 24.1-104 of the County Code.
7. Outside display of merchandise shall be limited to one screen porch model and one sunroom model as shown on the applicant's sketch plan received by the Planning Division 7/9/02. The display merchandise shall be located in the side yard of the property (behind the front face of the principal shop building), and shall not be located within the front yard or any portion of the parking area.
8. In accordance with the provisions of Section 24.1-115(d) of the Zoning Ordinance, significant modifications to this approval as determined by the Zoning Administrator shall require that a new use permit application be submitted for review. Modifications can be administratively approved if the Zoning Administrator determines the modification to be minor.
9. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this special use permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.

Application No. UP-605-02, Jimmie L. Goode: Request for a Special Use Permit, pursuant to Section 24.1-407 of the York County Zoning Ordinance to authorize an accessory apartment containing in excess of 25% of the total floor area of the associated single family detached dwelling. The property is located at 711 Dare Road, and is further identified as Assessor's Parcel No. 25F-1-3. The property is located on the south side of Dare Road (Route 621), approximately 200 feet west of its intersection with Railway Road (Route 620). The property is zoned RR (Rural Residential) and is designated for Low Density Residential development in the Comprehensive Plan.

Ms. Amy Parker presented a summary of the staff report to the Commission dated September 4, 2002, in which the staff recommended approval of this application.

There were no questions, and the Chair opened the public hearing.

Mr. Jimmie Goode, 711 Dare Road, offered to answer questions.

Mr. Ptasznik inquired if the upstairs portion of the building is heated and what purpose it serves, and Mr. Goode stated it is heated and used for storage.

The Chair closed the public hearing.

Mr. Ptasznik noted the area requested for the accessory apartment is 28%, over the 25% that is allowed by right. Ms. Parker explained that because the apartment's floor area is greater than the 450 sq. ft. permitted by right and greater than 25% of the main house, a special use permit is required.

PC02-34

On motion of Mr. Heavner, which carried 7:0, the following resolution was adopted:

**A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT
TO AUTHORIZE A DETACHED ACCESSORY APARTMENT AT 711 DARE
ROAD**

WHEREAS, Jimmie L. Goode has submitted Application No. UP-605-02 to request a special use permit, pursuant to Section 24.1-407(c) of the York County Zoning Ordinance, to authorize a detached accessory apartment in conjunction with a single-family detached dwelling on property located at 711 Dare Road and further identified as Assessor's Parcel No. 25F-1-3; and

WHEREAS, said application has been referred to the York County Planning Commission; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application in accordance with applicable procedure; and

WHEREAS, the Commission has given careful consideration to the public comments and staff recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 11th day of September, 2001, that it does hereby transmit Application No. UP-605-02 to the York County Board of Supervisors with a recommendation of approval to authorize a special use permit, pursuant to Section 24.1-407(c) of the York County Zoning Ordinance, subject to the following conditions:

1. This use permit shall authorize a detached accessory apartment in conjunction with a single-family detached dwelling on property located at 711 Dare Road and further identified as Assessor's Parcel No. 25F-1-3.
2. Except as specifically modified herein, building plans for the accessory apartment shall be submitted to and approved by the York County Department of Environmental and Development Services, Division of Building Regulation, prior to the commencement of any construction activities related to the accessory apartment use on the site. A Certificate of Occupancy for the apartment must be issued prior to establishing residence in the building.
3. Not more than one (1) accessory apartment shall be permitted in conjunction with the principal dwelling unit.
4. The accessory apartment unit shall not contain in excess of 700 square feet.
5. The accessory apartment unit shall contain no more than one (1) bedroom.

6. The accessory apartment unit shall be located on the ground floor of the building in which located. The second floor of the building shall remain an open area (without separate rooms or interior dividing walls) and shall be used for storage purposes only.
7. Adequate provisions shall be made for off-street parking of motor vehicles in such a fashion as to be compatible with the character of the single-family residence and adjacent properties.
8. The accessory apartment shall not be rented separate from the principal dwelling and shall be occupied only by family members or guests of the occupant of the single-family dwelling. The accessory apartment shall not be served by a separate electrical service meter.
9. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this special use permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.

Application No. UP-606-02, ZAC Enterprises: Request for a Special Use Permit, pursuant to Section 24.1-306 (Category 11, No. 15) of the York County Zoning Ordinance, to authorize a drive-in fast food restaurant. The property is located at 721 East Rochambeau Drive (Route F-137) and is further identified as Assessor's Parcel No. 2-17-B. The property is located on the south side of East Rochambeau Drive, approximately 1500 feet east of its intersection with Mooretown Road (Route 603). The property is zoned EO (Economic Opportunity) and is designated for Economic Opportunity development in the Comprehensive Plan.

Ms. Amy Parker reviewed the memorandum to the Commission dated September 4, 2002 in which the staff recommended approval.

Mr. Heavner asked if the applicant plans to use electronic menu boards. Ms. Parker deferred to the applicant.

Chair Hendricks opened the public hearing.

Mr. Bill Ganyon, 10955 Granada Lane, Overland Park, Kansas, stated that the applicant does not plan to use electronic signs for this use. He stated that canopy lighting is employed where standard outdoor lighting would be disruptive to their surroundings, but in the desired location - next to a Wal-Mart - that should not be an issue.

Hearing no others, the Chair closed the public hearing.

PC02-35

On motion of Ms. White, which carried 7:0, the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT
TO AUTHORIZE A DRIVE-IN RESTAURANT AT 721 EAST ROCHAMBEAU
DRIVE

WHEREAS, ZAC Enterprises has submitted Application No. UP-606-02, which requests a special use permit, pursuant to Section 24.1-306 (Category 11, No. 15) of the York County Zoning Ordinance, to authorize a drive-in restaurant located at 721 East Rochambeau Drive (Route F-137) and further identified as Assessor's Parcel No. 2-17-B; and

WHEREAS, said application has been referred to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 11th day of September, 2002 that Application No. UP-606-02 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize a drive-in restaurant located at 721 East Rochambeau Drive (Route F-137) and further identified as Assessor's Parcel No. 2-17-B, subject to the following conditions:

1. This use permit shall authorize a drive-in restaurant located at 721 East Rochambeau Drive (Route F-137) and further identified as Assessor's Parcel No. 2-17-B.
2. A site plan prepared in accordance with the provisions of Article V of the York County Zoning Ordinance shall be submitted to and approved by the York County Department of Environmental and Development Services, Division of Development and Compliance prior to the commencement of any construction activities on the subject parcel. Except as modified herein, said site plan shall be in substantial conformance with the plan titled "Sonic @ Rochambeau, York County, VA;" sheet L-1 of 11, prepared by The TAF Group, dated July 25, 2002, received by the Planning Division August 28, 2002 and building elevations submitted to the Planning Division on July 31, 2002.
3. Freestanding identification signage shall be limited to a single monument sign in substantial conformance with the monument sign elevation received by the Planning Division on August 28, 2002. Brick fascia used on the base of the sign shall match that of the building façade.
4. Brick used for the façade of the building as shown in architectural elevations submitted by the applicant shall be of a material and color that is compatible with the brick used for the Lowe's and Wal-Mart stores co-located within the Cedar Valley Shopping Center.
5. A traffic impact analysis, prepared by a transportation engineer or transportation planner in accordance with the requirements set forth in Section 24.1-251(b)(1) of the York County

Zoning Ordinance, shall be submitted for review and consideration by the County and the Virginia Department of Transportation at time of initial application for site plan approval.

6. With the exception of the decorative neon lighting on the exterior of the canopies and poles at the west end of the building, site lighting shall be shielded and directed downward to prevent off-site illumination. All lighting schemes and lighting fixtures shall be consistent with the lighting recommended by the Illumination Engineering Society of North America (IESNA).
7. Volume levels of all outside speakers shall be such that speaker sound is not audible off-site.
8. Landscaping shall be substantially in accordance with the plan referenced in Condition #2 above. To accomplish buffering of East Rochambeau Drive, landscaping on the berm at the west end of the site shall be a mix of evergreen and deciduous trees and shrubs in a ratio satisfactory to the Zoning Administrator.
9. In accordance with the provisions of Section 24.1-115(d) of the Zoning Ordinance, significant modifications to this approval as determined by the Zoning Administrator shall require that a new use permit application be submitted for review. Modifications can be administratively approved if the Zoning Administrator determines the modification to be minor.
10. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this special use permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.

Application No. YVA-16-02, Richard and Rosemary Stacpoole: Request for a change in use in Yorktown, pursuant to Section 24.1-327(b)(4) of the Zoning Ordinance, to authorize the conversion of an art gallery, known as "On the Hill," to an antique store with living quarters in an existing building located at 121 Alexander Hamilton Boulevard and further identified as Assessor's Parcel No. 18-3B. The property is zoned YVA (Yorktown Village Activity). The Comprehensive Plan designates Yorktown as an historical village without reference to specific land uses.

Mr. Tim Cross presented a summary of the staff report to the Commission dated August 26, 2002 and noted the staff recommendation of approval.

Mrs. White asked what the outcome would be if the application were approved and the applicant does not continue conducting an antique business at the location. Mr. Cross said if that were to occur the building would become a single-family home.

Mr. Barba suggested the property would be ideal for a coffee shop or restaurant, as well.

The Chair opened the public hearing.

Mr. Richard B. Stacpoole, 125 Roffinghams Way, Williamsburg, offered to answer questions. Replying to Mr. Hendricks, Mr. Stacpoole said he would not destroy any trees to add parking spaces. His dream has been to operate an antique shop, he said, and he and his wife believe they have found the perfect place to fulfill the dream. They also look forward to being part of the Yorktown community.

Mr. Gary Freeman, proprietor of Gin Tail Antiques, 114 Ballard Street, welcomed the prospect of the Stackpooles' venture, adding it would increase the draw of the antique shops that already are in the village and be good for business.

Hearing no others, the Chair closed the public hearing.

Mr. Hendricks commented that this appears to be a good use for a good location.

Mrs. White voiced her satisfaction with the proposal.

Resolution No. PC02-36

On motion of Ms. White, which carried 7:0, the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF AN APPLICATION TO
AUTHORIZE AN ANTIQUE SHOP WITH LIVING QUARTERS WITHIN AN
EXISTING BUILDING LOCATED AT 121 ALEXANDER HAMILTON
BOULEVARD IN THE VILLAGE OF YORKTOWN

WHEREAS, Richard and Rosemary Stacpoole have submitted Application No. YVA-16-02, pursuant to Section 24.1-327(b)(4) of the York County Zoning Ordinance, to authorize the conversion of an art gallery, known as "On the Hill," to an antique store with living quarters in an existing building located at 121 Alexander Hamilton Boulevard and further identified as Assessor's Parcel No. 18-3B; and

WHEREAS, said application has been referred to the York County Planning Commission; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application in accordance with applicable procedure; and

WHEREAS, the Commission has given careful consideration to the public comments and staff recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 11th day of September 2002, that Application No. YVA-11-02 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize a change in use, pursuant to Section 24.1-327(b)(4) of the York County Zoning Ordinance, subject to the following conditions:

1. This application shall authorize the establishment of an antique shop with living quarters in an existing structure on property located at 121 Alexander Hamilton Boulevard and further identified as Assessor's Parcel No. 18-3B.
2. One (1) freestanding, non-illuminated sign, not exceeding six (6) square feet in area, shall be permitted to identify the use.
3. On-site parking for a minimum of two (2) vehicles shall be provided to accommodate the living quarters associated with the antique shop. Permitted surfacing materials for the driveway and the parking area shall include compacted soil/stone mixture, brown pea stone/gravel, exposed aggregate concrete, and brick pavers.
4. Outdoor storage or display of merchandise shall be expressly prohibited.
5. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this special use permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.

OLD BUSINESS

The members scheduled a work session on September 23, 2002 for the purpose of discussing the Draft Yorktown Design Guidelines.

NEW BUSINESS

Mr. Carter announced that the Board of Supervisors would receive a presentation on the Yorktown waterfront from the County's consultant on that project during a work session September 24, 2002 in the York Hall East Room. It is open to the public.

STAFF REPORTS

Mark Carter reported on recent actions taken by the Board of Supervisors.

COMMITTEE REPORTS

Mr. Simasek reported that the Regional Issues Committee met in August and discussed but postponed the renaming of Route 199. He requested any suggestions that members have for a name for Route 199, which Mr. Simasek will present at a later meeting of the RIC.

COMMISSION REPORTS AND REQUESTS

Mr. Hendricks inquired about possible Zoning Ordinance amendments regarding accessory apartments, and Mr. Carter replied that the staff is working on some draft amendments that include accessory apartments.

Mr. Ptasznik announced that VoiceStream Wireless would hold a public meeting to discuss its upcoming use permit application. The meeting will be in the Poquoson area toward the end of the month.

FUTURE BUSINESS

Mr. Carter discussed the applications received for October public hearings.

ADJOURNMENT

Chair Hendricks called adjournment at 10:57 PM.

SUBMITTED: s/s
Phyllis P. Liscum, Secretary

APPROVED: s/s
Michael H. Hendricks, Chair

DATE: October 9, 2002